

REMARKS/ARGUMENTS

Claims 1-23 are currently pending. Claims 7-8, 12-13 and 21 were previously withdrawn as being drawn to a non-elected species. No claims have been amended and no new claims have been added. Reconsideration of the present application is respectfully requested in light of the following remarks.

Claim Rejections - 35 USC §102

Claims 1-3, 5-6, 14-15, 17, 18 and 20 have been rejected under 35 U.S.C. 102(b) for allegedly being anticipated by U.S. Patent No. 3,114,480 (Sauter). The Office Action relies on Sauter's Figures 4-5 to allege that it shows a pierce member 10 and a barb 22. Applicant respectfully traverses this rejection for the reasons set forth below.

A review of Sauter shows that the stamped sheet-metal member 10 of has a flange 22. Flange 22 is not a barb. Flange 22 does not expand outward in the direction towards the proximal end of the device as is currently claimed. Furthermore the flange 22 of is not the same member as the outwardly expanding external surface of the presently claimed invention. In particular, the flange member 22 of Sauter does not disclose the following element of claim 1: " external surface expanding outwardly in a region proximal of the distal end in a direction toward the proximal end except on a second side opposite from the first side"; (2) does not disclose the following element of claim 14: " wherein the external surface of the pierce member expands outwardly in a region proximal of the distal end in a direction toward the proximal end, except on a second side opposite from the first side, to form a tapered external surface portion in the region proximal of the distal end; and does not disclose the following element of claim 18: " the external surface expanding outwardly in a region proximal of the distal end in a direction toward the proximal end except on a second side opposite from the first side."

For at least these reasons, Applicant respectfully submits that independent claims 1, 14 and 18 are not anticipated by the Sauter reference. Furthermore, dependent claims 2-3, 5-6 and 15-17 are also patentable at least because they depend from a patentable claim. Applicant respectfully requests the withdrawal of the Section 102(b) rejection.

Claim Rejections - 35 USC §103

Dependent claims 4, 16 and 19 have been rejected under 35 U.S.C. 103(a) as allegedly being obvious over Sauter in view of Kawguchi (US2004/0104246). The Office Action found that Sauter lacks a flange spaced from the barb, and that Kawaguchi shows a flange 12c to limit the penetration of the pierce member, and that it would have been obvious to one of ordinary skill in the art to have modified the Sauter pierce member with flange as taught by Kawaguchi to limit the penetration of the pierce member. Applicant respectfully disagrees for the reasons set forth below.

Applicant respectfully submits that the deficiencies of the primary Suater reference are not overcome by the Kawaguchi reference. As set forth above, the primary reference does not disclose or suggest an outwardly expanding external surface that expands outward in the direction towards the proximal end of the device as is currently claimed. And for that reason Applicant respectfully submits that the presently pending claims 4, 16 and 19 are patentable over the Suater reference since their base claims are not anticipated by Sauter.

The Kawaguchi reference also fails to disclose or suggest an outwardly expanding external surface that expands outward in the direction towards the proximal end of the device as is currently claimed.

Applicant respectfully submits that there is no motivation found in either of the Sauter or Kawaguchi references to combine these two references as suggested by the Office Action. First of all, the Sauter device is a stamped sheet metal piece and the Kawaguchi piece is a plastic piece. A person of ordinary skill in the art would have no motivation to combine a plastic injection molded piece with a stamped sheet metal piece, as these two materials are non-analogous. Secondly, the Sauter piece already has a flange (e.g. see element 22 of Sauter). Considering that the Suater reference already has a flange, it would then make no sense for a person of ordinary skill in the art to look to another reference to modify Sauter to have a flange - Sauter already has a flange.

In addition, assuming that a motivation did exist, which does not, to combine Sauter and Kawaguchi as suggested by the Office Action, such a hypothetical combination would still fail to render obvious the presently claimed invention, because of the deficiencies of

the primary reference in not disclosing or suggesting an outwardly expanding external surface that expands outward in the direction towards the proximal end of the device as is currently claimed. For at least these reasons, Applicant respectfully requests the withdrawal of the Section 103 rejection of claims 4, 16 and 19.

Allowable Subject Matter

The Office Action has found claims 10-11 and 22-23 allowable if they are rewritten in independent form including all of the elements of their base claims. Applicant is pleased with this finding. However, Applicant respectfully submits that all presently pending claims are novel and non-obvious over the cited references.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

Babak Kusha

Babak Kusha
Reg. No. 51,095

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
BK: fcr
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